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MAY 27 2005

OFFICE OF PETITIONS

In re Application of
Hongyi Zhou
Application No. 09/837,505
Filed: April 18, 2001
Attorney Docket No. EGS10130US

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DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed July 30, 2004, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on October 31, 2004. A Notice of Abandonment was mailed on March 7, 2005.

In the present petition, petitioner requested an extension of time to reply within the first month and paid a \$1,020.00 fee. Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. The extension of time fee is unnecessary and will be refunded because petitioner filed the petition subsequent to the maximum period obtainable for reply. Additionally, petitioner disclaimed the part of the term of any patent granted on the application that is equivalent to the period of abandonment of the application. A terminal disclaimer is not necessary because petitioner filed this utility application after June 8, 1995. See 37 CFR 1.137(d). Therefore, the Office has not entered the terminal disclaimer.

Furthermore, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" be submitted. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Accordingly, the petition is granted.

Petitioner stated that he enclosed a check with the petition in the amount of \$1,630.00. However, the Office finance records show the Office received only \$1,450.00.

As previously stated, the \$1,020.00 extension of time fee is not necessary. This amount will be applied towards the payment of the \$750.00 small entity fee for a petition under 37 CFR 1.137(b), leaving a balance of \$270.00. Additionally, petitioner submitted a miscellaneous fee of \$450.00, which is also unnecessary. Accordingly, petitioner will be credited the \$450.00 miscellaneous fee and the \$270.00 balance, for a total refund of \$720.00. The \$720.00 will be refunded by treasury check in due course.

The matter is being referred to Technology Center Art Unit 2145.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

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